

Message Text

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E.O. 11652: GDS

TAGS: TSPA, PFOR, UN, IT, AU

SUBJ: OUTER SPACE LEGAL: ITALIAN AND AUSTRIAN VIEWS ON
REMOTE SENSING AND DEFINITION OF OUTER SPACE

1. IN MAY 30 DINNER CONVERSATION WITH US DELOFF,
ITALIAN AND AUSTRIAN REPS TO UN OUTER SPACE LEGAL SUB-
COMMITTEE WERE IN GENERAL AGREEMENT ON NEED FOR ADDITIONAL
LEGAL REGULATION OF REMOTE SENSING FROM SPACE.

2. ITALIAN, NAPLES LAW PROFESSOR CAPOTORTI, WHO IS
SOPHISTICATED VETERAN PARTICIPANT IN OSLS PROCEEDINGS
AND EXTREMELY PRO-US, AGREED WITH US DELOFF THAT MAJOR
US POLICY STATEMENT MAY 28 HAD BEEN CORRECT THAT SPACE
REMOTE SENSING IS ENTIRELY CONSONANT WITH OUTER SPACE
TREATY. HOWEVER, HE INDICATED HE WAS TROUBLED AS
THEORETICIAN BY EARTH-ORIENTED ASPECTS OF REMOTE SENSING
WHICH, HE SAID, MIGHT NOT ENTIRELY BE COVERED BY OST
PHRASE "EXPLORATION AND USE OF OUTER SPACE".
AUSTRIAN FOREIGN MINISTRY LEGAL OFFICER TUERK,
SUPPORTED THIS VIEW.

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3. ON PRAGMATIC GROUNDS BOTH REPS INDICATED THEIR AND OTHER OSLS DELS' CONCERNS RE REMOTE SENSING FOCUSSED NOT SO MUCH ON GOVERNMENTAL AS ON PROSPECTIVE PRIVATE ACTIVITIES IN FIELD. THEY MENTIONED IN PARTICULAR MULTINATIONAL CORPORATIONS WHICH IN THEIR VIEW HAD DEMONSTRATED THEIR ABILITY TO OPERATE OUTSIDE CONSTRAINTS OF GOVERNMENTAL CONTROL AND TREATY OBLIGATIONS IN NUMBER OF AREAS.

4. US DELOFF OBSERVED THAT GOVERNMENTS RETAINED CONTROL OVER ACCESS TO AREAS WHERE REMOTE SENSING MIGHT REVEAL POSSIBLE USABLE RESOURCES; AND THIS CONTROL COULD BE EXERTED AGAINST CORPORATIONS AND PRIVATE INDIVIDUALS AS WELL AS OTHER GOVERNMENTS. BOTH REPS DENIED AS PRACTICAL MATTER THAT SUCH CONTROLS COULD BE ASSUMED TO BE EFFECTIVE. THEY NOTED, E.G. ABILITY OF CORPORATE PURCHASERS TO BUY UP LARGE LAND AREAS IN RELATIVELY SHORT TIME; INSUFFICIENTLY ALERT GOVTS MIGHT LEARN OF TRANSACTIONS TOO LATE TO PUT CHECK TO THEM.

5. IT WAS ALSO EVIDENT IN CONVERSATION THAT BOTH REPS WERE VERY CONSCIOUS OF DISPARATE CAPABILITIES AMONG DIFFERENT COUNTRIES TO INTERPRET REMOTE SENSING DATA EVEN WHEN SUCH DATA WAS UNLIMITEDLY AVAILABLE TO ALL. AGAIN, IN THIS CONNECTION, THEY ASSERTED MOST CONCERN OVER PROSPECTIVE DEVELOPMENT OR ACQUISITION OF SUCH CAPABILITIES BY LARGE CORPORATIONS.

6. WHILE NEITHER REP WOULD OFFER PROPOSED SOLUTION TO PERCEIVED PROBLEMS, IT WAS APPARENT BOTH WERE CONVINCED THAT FURTHER WORK WAS CALLED FOR IN DEVELOPING INTERNATIONAL LEGAL REGIME OVER REMOTE SENSING ACTIVITIES.

7. AS FOOTNOTE, BOTH REPS ALSO AGREED THAT IT WAS NECESSARY IN NEAR FUTURE SERIOUSLY TO ADDRESS QUESTION OF DEFINITION (DELIMITATION OF OUTER SPACE AND AIR SPACE. WHEN US DELOFF SUGGESTED PRAGMATIC APPROACH (I.E. OBJECTACHIEVING EARTH ORBIT OR BEYOND IS DEEMED TO BE IN OUTER SPACE) BOTH REPS SAID THAT WAS NO LONGER ADEQUATE. CONFIDENTIAL

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CAPOTORTI IN PARTICULAR FORESAW INCREASSING NUMBER OF "BORDERLINE" CASES WHICH WOULD INVOLVE DELIMITATION. IT WAS ALSO AGREED THAT SPACE SHUTTLE MIGHT CREATE SOME ADDITIONAL PROBLEMS, BOTH THEORETICAL AND PRACTICAL, INASMUCH AS IT WOULD ACT LIKE AN AIRCRAFT ON PART OF FLIGHT.

8. COMMENT: BOTH ITALIAN AND AUSTRIAN REPS ARE LARGELY

FRIENDLY TO US INTERESTS, ALTHOUGH BY NO MEANS AUTO-
MATIC IN SUPPORTING OUR VIEWS. FACT THEY BROUGHT
REMOTE SENSING ISSUES UP AT SOCIAL GATHERING AND WENT
ON AT SUCH LENGTH ABOUT THEM WOULD SEEM TO CONFIRM
OTHER INDICATIONS THAT PRO-CONTROL LOBBYING HAS BECOME
STRONGER AND MORE WIDESPREAD IN OSLS THAN MIGHT
HAVE BEEN THOUGHT.DALE

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